

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

74-3159626

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In re

Chapter 11

Case No.06-43527 -jf

CANAL SANITATION, INC.,

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**MOTION PURSUANT TO SECTIONS 363 (c)(1)and (2) OF
THE BANKRUPTCY CODE AND BANKRUPTCY RULE 9019
SEEKING AN ORDER FOR APPROVAL OF A STIPULATION OF CANAL
SANITATION, INC., WITH LOCAL 890 LEAGUE OF INTERNATIONAL
FEDERATED EMPLOYEES AND LIFE BENEFIT PLAN**

TO: THE HONORABLE JEROME FELLER
UNITED STATE BANKRUPTCY JUDGE

Canal Sanitation, Inc., Debtor and Debtor-in-Possession (the “Debtor”), by its attorneys, Law Offices of Stephen B. Kass, P.C. for its motion pursuant to Sections 363(c)(1) and (2) of Title 11 of the United States Code (the “Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rule 9019”) seeking an order of the Court (i) approving Stipulation of Canal Sanitation, Inc., with Local 890 League of International Federated Employees (“Local 890”) and LIFE Benefit Plan (“The Fund”), (ii) authorizing payments of monthly installments as per the Stipulation, (iii) other and further relief as may be just and proper.

BACKGROUND

1. On September 25, 2006 (the “Filing Date”), the Debtor filed Voluntary Petition

under Chapter 11 of the Bankruptcy Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Eastern District of New York.

2. Subsequent to the Filing Date, the Debtor remained in operation and control of its business pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

3. This Court has jurisdiction over this motion pursuant to 28 U.S.C. Section 1334. Venue of this proceeding and the motion in this District is proper pursuant to 28 U.S.C. Section 1408 and Section 1049. The statutory predicates for the relief sought herein are Section 363 (c)(1) and (2) of the Bankruptcy Code and Section 9019 of the Bankruptcy Rules.

4. Canal Sanitation, Inc., is a New York Corporation engaged in a business of solid waste removal. The Debtor’s principal place of business has been changed from 39 Ferris Street, Brooklyn, NY 11231 to 54 Hook Road, Beyonne, NJ 07002.

5. On March 28, 2007, creditors the Fund and Local 890 filed separate claims in the Debtor’s Chapter 11 case. The claims were filed as Canal Sanitation’s claims, but were documented on the Canal’s Carting Inc., Chapter 11 case claims register.

6. Local 890 unsecured claim for \$3,510.00 was filed on March 28, 2007 and its number is 26 on the claims register. This claim is for the employees union dues to the League of International Federated Employees (“Local 890” or the “Union”), pursuant to an agreement signed by the Debtor and the Union on April 1, 2005. According to the agreement, the Debtor had to deduct from the earnings of the employees, who have authorized so in writing, a sum equal to the amount certified by the Financial Secretary of the Union, those deductions are periodic union membership dues amounts. The Debtor did deduct the fees (Union dues), but failed to forward the deducted amounts due to the Union and as such, do not constitute property of the Debtor’s estate pursuant to 11 U.S.C. Section 541. The amounts owed are pre-petition union dues owed to the Local 890.

7. The above mentioned contract signed between the Union and the Debtor states that the Debtor also had to join the Life Benefit Plan (“The Fund”) effective April 1st, 2005. The Fund is administered jointly by the Union and covers the health and welfare part of the employees employment. According to the Agreement the Debtor had to contribute \$250.00 a month for PLAN-A1 coverage, per employee, for each employee who has completed 30 days of employment. The Debtor owes, pre-petition \$ 22,240.00 to the Fund. As a precaution, and without waiving its claim to the monies that are not the property of the Debtor’s estate, the Fund filed a priority claim in the Debtor’s Chapter 11 case for \$22,240.00.

STIPULATION OF SETTLEMENT BETWEEN CANAL SANITATION, INC., AND
LOCAL 890 LEAGUE OF INTERNATIONAL FEDERATED EMPLOYEES
(LOCAL 890) AS WELL AS LIFE BENEFIT PLAN (“FUND”)

8. After the claims were filed in the Debtor’s Chapter 11 case, the parties entered into negotiations regarding the repayment of the amounts due to the Local 890 and the Fund.

9. Taking into consideration the fact that the Union is an authorized Collective Bargaining Agent for practically all the employees employed by the Debtor including all non-supervisory drivers, helpers, mechanics, welders, utility and laborers it is vital for the Debtor to be current with both creditors and start repayment of the pre-petition obligations due prior to the Confirmation of the Debtor’s Chapter 11 Plan.

10. The respective parties have agreed that the total amount due on both of the claims will be paid to the Union and the Fund within a 1 year period starting with the day of the court’s approval of the present agreement. Interest of 6 % (percent) will be added to the total

amount due. The total amount due with interest will be \$27,295.00. This amount will be paid off within a year in twelve (12) equal monthly installment payments of \$2,275.00. The first monthly payment will be due on the 1st day of the month following the bankruptcy court's approval of the present Stipulation.

11. The Debtor, Local 890 and the Fund have agreed that (a) in the event that Debtor defaults in making timely payment of any monthly and fails to cure within 5 days of the due date of the payment or, (b) the Debtor's Chapter 11 proceeding is converted to a Chapter 7 proceeding, (c) the Debtor's bankruptcy proceeding is dismissed, or (d) there is a sale, transfer or assignment of all or substantially all of the Debtor's assets, then in any of those events: (i) the remaining balance shall be accelerated and shall be immediately due and payable and if unpaid, default interest shall accrue at the rate of 12%; (ii) the remaining balance plus interest shall be a joint and several obligation of the Debtor (including any successor, assignee or purchaser of all or substantially all of the Debtor's assets) and the officers of the Debtor (including any successor, assignee or purchaser of all or substantially all of the Debtor's assets), Frank Campo and Nicholas Infantino. In such event, the Debtor, and the officers of the Debtor, Frank Campo and Nicholas Infantino, shall be jointly and severally liable for the attorneys' fees and expenses of the Fund and Local 890 arising out of, related to, or incurred in connection with such event.

12. Honoring the present agreement between the Debtor on one side and the Union and a Fund on the other side seems imperative, since the Union and the Fund otherwise would bring a Motion in front of the Bankruptcy Court to allow them to start examination of the Debtor pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016. The reason for that would be the necessity to determine how the Debtor commingled funds that were supposed to be paid to

the Union and the Fund with all other debtor's "cash".

13. The process of examination can be very time consuming as much as very expensive for both the Debtor and the creditors and might exceed, or come close to, the claim in issue.

14. In addition, the Union will be an integral piece of any Reorganization Plan.

RELIEF REQUESTED

15. By this motion, the Debtor seeks an approval of the Stipulation between Canal Sanitation Inc., on one side and the Union and a Fund on the other side.

WAIVER OF MEMORANDUM OF LAW

16. The Debtor respectfully request that the Court waive the requirement set forth in Local Bankruptcy Rule 9013-1(b) that any motion filed shall have an accompanying memorandum of law. No novel issues of law are presented in this Application and the Application contains citations to the relevant authority. Accordingly, the Debtor submits that waiver of the Rule 9013-1(b) requirement is appropriate in these circumstances.

NO PRIOR RELIEF REQUESTED

17. No prior motion for the relief requested herein has been made to this or any other court.

CONCLUSION

18. In light of the foregoing, the Debtor respectfully requests that this Court enter an

order substantially in the form annexed hereto as Exhibit "A" authorizing the Debtor to pay Local 890 and the Fund as per the Stipulation, and granting such other and further relief as may be just and proper.

Dated: New York, New York
September 10, 2007

Respectfully Submitted,
Law Offices of Stephen B. Kass, P.C.

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